

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CESAR SANCHEZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 08 CIV 6292(NRB)
	)	
CUSTOM MUFFLER SPECIALISTS, INC.,	)	
DOALL COMPANY,	)	
CONTINENTAL HYDRAULICS,	)	<b>JURY TRIAL DEMANDED</b>
BALDOR ELECTRIC COMPANY, and	)	
JOHN DOE CORPORATIONS 1 through 10	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendant Baldor Electric Company ("Baldor"), by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1441 *et seq.*, hereby gives notice of its removal of Plaintiff's State action to this Court. In support of removal, Baldor states that:

1. On or about May 27, 2008, Plaintiff Cesar Sanchez commenced an action against Defendants in the Supreme Court of the State of New York, County of Bronx, Case No. 304315-08. Pursuant to a Stipulation dated June 30, 2008, Baldor's answer to Plaintiff's complaint is due on or before July 30, 2008. A copy of the Stipulation is attached as Exhibit A.
2. On June 11, 2008, Baldor was served with a Summons and Complaint in that action. A copy of the Summons and Complaint is attached hereto as Exhibit B.
3. Pursuant to Local Rule 81.1, Baldor states the following:
  - a. According to his Complaint, Plaintiff is a resident of Bronx County, New York. Plaintiff's specific residence address is unknown to Baldor.
  - b. Defendant Custom Muffler Specialists, Inc. is a New Hampshire corporation that was dissolved on November 2, 1992 and therefore, upon

information and belief, has no principal place of business. *See* information from New Hampshire Secretary of State's website, attached hereto as Exhibit C. The State Court file does not reflect that service has been made upon Custom Muffler Specialists, Inc.

- c. Defendant Doall Company is an Illinois corporation with its principal place of business in Illinois. The State Court file does not reflect that service has been made upon Doall Company.
- d. Continental Hydraulics is a Minnesota corporation with its principal place of business in Savage, Minnesota. Continental Hydraulics was served on June 16, 2008.
- e. Baldor is a Missouri corporation with its principal place of business in Fort Smith, Arkansas. Baldor was served with the Summons and Complaint in this action on June 11, 2008.
- f. The residence of the John Doe Defendants is disregarded for the purposes of removal. *See* 28 U.S.C. § 1441(a) ("For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded."). *See also Australian Gold, Inc. v. Hatfield*, 436 F.3d 1228, 1235 (10th Cir. 2006).

4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed because it is being filed within thirty (30) days after Baldor was served with process in the State Court action.

5. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(b) if it is one "of which the district courts have original jurisdiction" and "if none of the parties in interest

properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b).

6. Plaintiff claims to have been in the vicinity of an exhaust pipe bending machine when it “unexpectedly activated,” and Plaintiff as a result purportedly sustained “severe and serious personal injuries, was caused to suffer severe physical pain and mental anguish, was obliged to and did expend large sums of money for medical and hospital expenses, was confined to bed and home, and was incapacitated from attending his usual activities.” Complaint at ¶¶ 67-68. On July 11, 2008, I contacted Plaintiff’s counsel’s office and was informed plaintiff’s injuries include an amputated left ring finger and crushed left hand. I have more than 30 years experience in defending product liability cases and the injuries sustained by Plaintiff involve damages in excess of \$75,000. Accordingly, upon information and belief, Plaintiff will be seeking damages in excess of \$75,000.

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because Plaintiff Cesar Sanchez and the named Defendants are citizens of different states and upon information and belief, Plaintiff is seeking damages in excess of \$75,000.

8. Upon information and belief, Baldor files this Notice of Removal with all requisite conditions to establish removal jurisdiction in this Court.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal and a Notice of Removal to Clerk of the Supreme Court of the State of New York, County of Bronx, is being filed with the State Court. A copy of the Notice of Removal to Clerk of the Supreme Court of the State of New York, County of Bronx, is attached as Exhibit D.


10. The written consent of Doall Company and Continental Hydraulics is attached hereto as Exhibit E.

11. Baldor requests a trial by jury herein on all counts of Plaintiff's Complaint.

Dated: New York, New York  
July 11, 2008

Respectfully submitted,

HERZFELD & RUBIN, P.C.

By:   
Jeffrey L. Chase (JLC 4476)  
Attorneys for Defendant  
Baldor Electric Company  
40 Wall Street  
New York, New York 10005  
(212) 471-8500

TO: Clerk of the Supreme Court  
Supreme Court, Bronx County  
851 Grand Concourse  
Bronx, New York 10451

Richard J. Katz, Esq.  
Attorneys for Plaintiff  
80 Broad Street, 33rd Floor  
New York, New York 10004

Marin Goodman, LLP,  
Attorneys for Defendants  
Doall Company and Continental Hydraulics  
40 Wall Street, 57th Floor  
New York, NY 10005  
(212) 661-1151

Custom Muffler Specialist, Inc.  
461 Amherst Street  
Nashum, New Hampshire 03063

EXHIBIT A

06/30/2008 MON 15:59 FAX 5555555555

002/002

06/30/2008 11:57 FAX 212 319 1064

QUIRK And BAKALOR PC

002/002

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CESAR SANCHEZ,

Plaintiff,

Index #304315-08

- against -

CUSTOM MUFFLER SPECIALISTS, INC.,  
DOALL COMPANY, CONTINENTAL  
HYDRAULICS, BALDOR ELECTRIC COMPANY  
and JOHN DOE CORPORATIONS 1 through 10,

STIPULATION

Defendants,

*IT IS HEREBY STIPULATED AND AGREED*, that the time for the defendant

BALDOR ELECTRIC COMPANY to appear and to answer, amend or supplement the Answer

to the Complaint, as of course, ~~is hereby extended to and including the 30<sup>th</sup> day of July~~~~Completion of this action~~, be and same is hereby extended to and including the 30<sup>th</sup> day of July2008. *In consideration of this Courtesy, D Baldor*  
*waives any objection to Personal Jurisdiction and/or any*  
Dated: New York, New York *OBJECTION REGARDING SERVICE OF PROCESS*  
June 30, 2008  
RICHARD J. KATZ, ESQ.*Accepted As Answered only!*

**EXHIBIT B**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

X

CESAR SANCHEZ,

*Plaintiff,*

*- against -*

CUSTOM MUFFLER SPECIALISTS, INC.,  
DOALL COMPANY,  
CONTINENTAL HYDRAULICS,  
BALDOR ELECTRIC COMPANY and  
JOHN DOE CORPORATIONS I through 10,

*Defendants.*

X

Index Number: 304315-08

Date Filed: 5-27-08

Plaintiff designates  
BRONX COUNTY as the  
place of trial

The basis of venue is  
CPLR 503(a)

**S U M M O N S**

Plaintiff resides within  
STATE OF NEW YORK  
COUNTY OF BRONX

To the above named Defendant(s):

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
May 23, 2008

Yours, etc.,

RICHARD N. KATZ, LLP

By:

RICHARD N. KATZ

Attorneys for the Plaintiff  
CESAR SANCHEZ  
80 Broad Street, 33<sup>rd</sup> Floor  
New York, New York 10004  
(212) 233-1515

COUNTY CLERK  
BRONX COUNTY

08 MAY 27 AM 9:44

RECEIVED



To:

CUSTOM MUFFLER SPECIALISTS, INC.  
c/o Scott Philo  
461 Amherst Street  
Nashua, New Hampshire 03063

DOALL COMPANY  
c/o Timothy P. Moran  
1480 South Wolf Road  
Wheeling, Illinois 60090

CONTINENTAL HYDRAULICS  
5505 West 123<sup>rd</sup> Street  
Savage, Minnesota 55378

BALDOR ELECTRIC COMPANY  
c/o CT CORPORATION SYSTEM  
111 Eighth Avenue  
New York, New York 10011

JOHN DOE CORPORATIONS 1 through 10

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

\_\_\_\_\_  
CESAR SANCHEZ,

*Plaintiff,*

*- against -*

CUSTOM MUFFLER SPECIALISTS, INC.,  
DOALL COMPANY,  
CONTINENTAL HYDRAULICS,  
BALDOR ELECTRIC COMPANY and  
JOHN DOE CORPORATIONS 1 through 10,

*Defendants.*  
\_\_\_\_\_

Index Number: 304315/08  
Date Filed: 5-27-08

VERIFIED  
COMPLAINT

Plaintiff, Cesar Sanchez, by his attorneys, Richard J. Katz, LLP, complaining of the defendants, Custom Muffler Specialists, Inc., Doall Company, Continental Hydraulics, Baldor Electric Company and John Doe Corporations 1 through 10, upon information and belief, and at all times hereinafter mentioned, alleges:

AS AND FOR A FIRST CAUSE OF ACTION

1. Plaintiff, Cesar Sanchez, resided and still resides within the County of Bronx, State of New York.
2. Defendant, Custom Muffler Specialists, Inc., is a duly organized foreign corporation authorized to do business in the State of New York.
3. Defendant, Custom Muffler Specialists, Inc., is a duly authorized foreign corporation transacting business in the State of New York.

RECEIVED  
08 MAY 27 AM 9:44  
COUNTY CLERK  
BRONX COUNTY

4. Defendant, Custom Muffler Specialists, Inc., is a duly organized foreign corporation transacting business at the premises known as 3 Cardinal Circle, Nashua, New Hampshire.

5. Defendant, Custom Muffler Specialists, Inc., is a duly organized foreign corporation, authorized to do business in the State of New York, transacting business at the premises known as 3 Cardinal Circle, Nashua, New Hampshire.

6. Defendant, Custom Muffler Specialists, Inc., does and/or solicits business within the State of New York.

7. Defendant, Custom Muffler Specialists, Inc., derives substantial revenue from goods used or services rendered in the State of New York.

8. Defendant, Custom Muffler Specialists, Inc., expected or should reasonably have expected its acts and business activities to have consequences within the State of New York.

9. Defendant, Custom Muffler Specialists, Inc., derives substantial revenue from interstate and international commerce.

10. Defendant, Custom Muffler Specialists, Inc., is a duly organized domestic corporation authorized to do business in the State of New York.

11. That on or prior to May 25, 2005, defendant, Custom Muffler Specialists, Inc., was engaged in the business of manufacturing, producing, assembling, constructing, testing, inspecting, designing, replacing, maintaining, leasing, renting, selling and/or distributing industrial products, including, but not limited to a certain exhaust pipe bending machine and its component parts.

12. That on or prior to May 25, 2005, defendant, Custom Muffler Specialists, Inc., while regularly engaged in the business and activities aforementioned, did design, manufacture, assemble, construct, inspect, test, repair, replace, maintain, lease, rent, sell and/or distribute the aforesaid machine and its component parts.

13. The aforementioned machine and its component parts was negligently designed, manufactured, produced, assembled, constructed, tested, repaired, replaced, maintained, examined and/or inspected, leased, rented, sold and/or distributed by defendant, Custom Muffler Specialists, Inc.

14. The defendant, Custom Muffler Specialists, Inc., by their agents, servants and/or employees failed to provide proper safety devices and guards on the aforementioned machine and component parts.

15. Defendant, DoAll Company, is a duly organized foreign corporation authorized to do business in the State of New York.

16. Defendant, DoAll Company, is a duly authorized foreign corporation transacting business in the State of New York.

17. Defendant, DoAll Company, is a duly organized foreign corporation transacting business at the premises known as 1480 South Wolf Road, Wheeling, Illinois.

18. Defendant, DoAll Company, is a duly organized foreign corporation, authorized to do business in the State of New York, transacting business at the premises known as 1480 South Wolf Road, Wheeling, Illinois

19. Defendant, DoAll Company, does and/or solicits business within the State of New York.

20. Defendant, DoAll Company, derives substantial revenue from goods used or services rendered in the State of New York.

21. Defendant, DoAll Company, expected or should reasonably have expected its acts and business activities to have consequences within the State of New York.

22. Defendant, DoAll Company, derives substantial revenue from interstate and international commerce.

23. Defendant, DoAll Company, is a duly organized domestic corporation authorized to do business in the State of New York.

24. That on or prior to May 25, 2005, defendant, DoAll Company, was engaged in the business of manufacturing, producing, assembling, constructing, testing, inspecting, designing, replacing, maintaining, leasing, renting, selling and/or distributing industrial products, including, but not limited to a certain exhaust pipe bending machine and its component parts.

25. That on or prior to May 25, 2005, defendant, DoAll Company, while regularly engaged in the business and activities aforementioned, did design, manufacture, assemble, construct, inspect, test, repair, replace, maintain, lease, rent, sell and/or distribute the aforesaid machine and its component parts.

26. The aforementioned machine and its component parts was negligently designed, manufactured, produced, assembled, constructed, tested, repaired, replaced, maintained, examined and/or inspected, leased, rented, sold and/or distributed by defendant, DoAll Company

27. The defendant, DoAll Company, by their agents, servants and/or employees failed to provide proper safety devices and guards on the aforementioned machine and its component parts.

28. Defendant, Continental Hydraulics, is a duly organized foreign corporation authorized to do business in the State of New York.

29. Defendant, Continental Hydraulics, is a duly authorized foreign corporation transacting business in the State of New York.

30. Defendant, Continental Hydraulics, is a duly organized foreign corporation transacting business at the premises known as 5505 West 123<sup>rd</sup> Street, Savage, Minnesota.

31. Defendant, Continental Hydraulics, is a duly organized foreign corporation, authorized to do business in the State of New York, transacting business at the premises known as 5505 West 123<sup>rd</sup> Street, Savage, Minnesota.

32. Defendant, Continental Hydraulics, does and/or solicits business within the State of New York.

33. Defendant, Continental Hydraulics, derives substantial revenue from goods used or services rendered in the State of New York.

34. Defendant, Continental Hydraulics, expected or should reasonably have expected its acts and business activities to have consequences within the State of New York.

35. Defendant, Continental Hydraulics, derives substantial revenue from interstate and international commerce.

36. Defendant, Continental Hydraulics, is a duly organized domestic corporation authorized to do business in the State of New York.

37. That on or prior to May 25, 2005, defendant, Continental Hydraulics, was engaged in the business of manufacturing, producing, assembling, constructing, testing, inspecting, designing, replacing, maintaining, leasing, renting, selling and/or distributing industrial products, including, but not limited to a certain exhaust pipe bending machine and its component parts.

38. That on or prior to May 25, 2005, defendant, Continental Hydraulics, while regularly engaged in the business and activities aforementioned, did design, manufacture, assemble, construct, inspect, test, repair, replace, maintain, lease, rent, sell and/or distribute the aforesaid machine and its component parts.

39. The aforementioned machine and its component parts was negligently designed, manufactured, produced, assembled, constructed, tested, repaired, replaced, maintained, examined and/or inspected, leased, rented, sold and/or distributed by defendant, Continental Hydraulics

40. The defendant, Continental Hydraulics, by their agents, servants and/or employees failed to provide proper safety devices and guards on the aforementioned machine and its component parts.

41. Defendant, Baldor Electric Company, is a duly organized foreign corporation authorized to do business in the State of New York.

42. Defendant, Baldor Electric Company, is a duly authorized foreign corporation transacting business in the State of New York.

43. Defendant, Baldor Electric Company, is a duly organized foreign corporation transacting business at the premises known as 5711 South 7<sup>th</sup> Street, Fort Smith, Arkansas.

44. Defendant, Baldor Electric Company, is a duly organized foreign corporation, authorized to do business in the State of New York, transacting business at the premises known as 5711 South 7<sup>th</sup> Street, Fort Smith, Arkansas

45. Defendant, Baldor Electric Company, does and/or solicits business within the State of New York.

46. Defendant, Baldor Electric Company, derives substantial revenue from goods used or services rendered in the State of New York.

47. Defendant, Baldor Electric Company, expected or should reasonably have expected its acts and business activities to have consequences within the State of New York.

48. Defendant, Baldor Electric Company, derives substantial revenue from interstate and international commerce.

49. Defendant, Baldor Electric Company, is a duly organized domestic corporation authorized to do business in the State of New York.

50. That on or prior to May 25, 2005, defendant, Baldor Electric Company, was engaged in the business of manufacturing, producing, assembling, constructing, testing, inspecting, designing, replacing, maintaining, leasing, renting, selling and/or distributing industrial products, including, but not limited to a certain exhaust pipe bending machine and its component parts.

51. That on or prior to May 25, 2005, defendant, Baldor Electric Company, while regularly engaged in the business and activities aforementioned, did design, manufacture, assemble, construct, inspect, test, repair, replace, maintain, lease, rent, sell and/or distribute the aforesaid machine and its component parts.



52. The aforementioned machine and its component parts was negligently designed, manufactured, produced, assembled, constructed, tested, repaired, replaced, maintained, examined and/or inspected, leased, rented, sold and/or distributed by defendant, Baldor Electric Company

53. The defendant, Baldor Electric Company, by their agents, servants and/or employees failed to provide proper safety devices and guards on the aforementioned machine and its component parts.

54. Defendant, John Doe Corporations 1 through 10, is a duly organized foreign corporation authorized to do business in the State of New York.

55. Defendant, John Doe Corporations 1 through 10, is a duly authorized foreign corporation transacting business in the State of New York.

56. Defendant, John Doe Corporations 1 through 10, is a duly organized foreign corporation transacting business at an unknown premises.

57. Defendant, John Doe Corporations 1 through 10, is a duly organized foreign corporation, authorized to do business in the State of New York, transacting business at an unknown premises.

58. Defendant, John Doe Corporations 1 through 10, does and/or solicits business within the State of New York.

59. Defendant, John Doe Corporations 1 through 10, derives substantial revenue from goods used or services rendered in the State of New York.

60. Defendant, John Doe Corporations 1 through 10, expected or should reasonably have expected its acts and business activities to have consequences within the State of New York.

61. Defendant, John Doe Corporations 1 through 10, derives substantial revenue from interstate and international commerce.

62. Defendant, John Doe Corporations 1 through 10, is a duly organized domestic corporation authorized to do business in the State of New York.

63. That on or prior to May 25, 2005, defendant, John Doe Corporations 1 through 10, was engaged in the business of manufacturing, producing, assembling, constructing, testing, inspecting, designing, replacing, maintaining, leasing, renting, selling and/or distributing industrial products, including, but not limited to a certain exhaust pipe bending machine and its component parts.

64. That on or prior to May 25, 2005, defendant, John Doe Corporations 1 through 10, while regularly engaged in the business and activities aforementioned, did design, manufacture, assemble, construct, inspect, test, repair, replace, maintain, lease, rent, sell and/or distribute the aforesaid machine and its component parts.

65. The aforementioned machine and its component parts was negligently designed, manufactured, produced, assembled, constructed, tested, repaired, replaced, maintained, examined and/or inspected, leased, rented, sold and/or distributed by defendant, John Doe Corporations 1 through 10

66. The defendant, John Doe Corporations 1 through 10, by their agents, servants and/or employees failed to provide proper safety devices and guards on the aforementioned machine and its component parts.

67. On or about May 25, 2005, the plaintiff, Cesar Sanchez, was in the vicinity of the subject machine when it unexpectedly activated.

68. By reason of the foregoing, plaintiff, Cesar Sanchez, sustained severe and serious personal injuries, was caused to suffer severe physical pain and mental anguish, was obliged to and did expend large sums of money for medical and hospital expenses, was confined to bed and home, and was incapacitated from attending to his usual activities.

69. The aforesaid occurrence and/or resulting injuries to the plaintiff, Cesar Sanchez, were due to the carelessness, recklessness and negligence of the defendants, their agents, servants and employees, in the design, manufacture, production, assembly, construction, testing, examination, inspection, repair, maintenance, installation, sale, rental, lease and distribution of the aforementioned machine and its component parts.

70. The aforesaid occurrence occurred without any fault or lack of care on the part of the plaintiff contributing thereto.

71. This action falls within one or more of the exceptions to Article 16 of the CPLR, Sections 1600 through 1603.

72. That by reason of the foregoing, the plaintiff, Cesar Sanchez, has been damaged by the aforesaid defendants in an amount that exceeds the jurisdiction of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION

73. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "72" inclusive, as if hereinafter set forth at length.

74. The defendants, in connection with their business activities aforementioned, warranted and represented expressly that said machine and component parts were capable and proper for the use and purposes for which same were intended to be used.

75. The defendants, in connection with their business activities aforementioned, warranted and represented expressly that said machine and component parts were safe in connection with its uses and further that same was of merchantable quality.

76. Plaintiff, Cesar Sanchez, relied on the skill and judgment of the defendants and their representations and warranties aforementioned in connection with the use of the aforesaid machine and component parts.

77. Said representations and warranties aforementioned were false, misleading and inaccurate in that said machine and component parts, when put to the test of actual wear, was and proved to be unsound and unsuitable for the purposes for which they were intended and utilized, and was unsafe, dangerous, improper and not of merchantable quality.

78. On or about May 25, 2005, while solely relying upon defendants' skill, representations and warranties, the plaintiff, Cesar Sanchez, Infant, was injured.

79. The Defendants were in breach of express warranties.

80. By reason of the foregoing, plaintiff, Cesar Sanchez, was seriously injured.

81. That by reason of the foregoing, the plaintiff, Cesar Sanchez, has been damaged by the aforesaid defendants in an amount that exceeds the jurisdiction of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION

82. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "81" inclusive, as if hereinafter set forth at length.

83. The defendants, in connection with their business activities aforementioned, warranted and represented impliedly that said machine and component parts were capable and proper for the use and purposes for which same were intended to be used.

84. The defendants, in connection with their business activities aforementioned, warranted and represented expressly that said machine and component parts were safe in connection with its uses and further that same was of merchantable quality.

85. Plaintiff, Cesar Sanchez, relied on the skill and judgment of the defendants and their representations and warranties aforementioned in connection with the use of the aforesaid machine and component parts.

86. Said representations and warranties aforementioned were false, misleading and inaccurate in that said machine and component parts, when put to the test of actual wear, was and proved to be unsound and unsuitable for the purposes for which they were intended and utilized, and was unsafe, dangerous, improper and not of merchantable quality.

87. On or about May 25, 2005, while solely relying upon defendants' skill, representations and warranties, the plaintiff, Cesar Sanchez, was injured.

88. The Defendants were in breach of implied warranties.

89. By reason of the foregoing, plaintiff, Cesar Sanchez, was seriously injured.

90. That by reason of the foregoing, the plaintiff, Cesar Sanchez, has been damaged by the aforesaid defendants in an amount that exceeds the jurisdiction of all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION

91. Plaintiffs, repeat, reiterate and reallege each and every allegation contained in paragraphs "1" through "90" inclusive, as if hereinafter set forth at length.
92. That said machine and component parts were expected to and did reach the usual consumer without substantial change in the condition in which they were manufactured and sold.
93. At those times, the said products were in a defective condition which was dangerous to users, the general public and in particular, the plaintiff, Cesar Sanchez
94. On or about May 25, 2005, the aforementioned products were in a defective condition.
95. The said products were inherently dangerous.
96. The said products failed to provide any warnings of the inherent defects contained therein.
97. Said defects were a substantial factor in causing plaintiff, Cesar Sanchez.
98. At the time of the occurrence herein, the said machine and component parts were being used for the purposes and in a manner normally intended.
99. Plaintiff, Cesar Sanchez, could not, by the exercise of reasonable care, have discovered the defects herein mentioned and/or perceived their danger.
100. By reason of the foregoing, the defendants have become strictly liable in tort to the plaintiff for the marketing of defective products which caused plaintiff's injuries.
101. By reason of the foregoing, plaintiff, Cesar Sanchez, was seriously injured.
102. That by reason of the foregoing, the plaintiff, Cesar Sanchez, has been damaged by the aforesaid defendants in an amount that exceeds the jurisdiction of all lower courts.

**WHEREFORE**, plaintiff, Cesar Sanchez, demands judgment against the defendants, on all the various causes of action, in an amount that exceeds the jurisdiction of all lower courts.

Dated: New York, New York  
May 23, 2008



RICHARD J. KATZ

ATTORNEY VERIFICATION

RICHARD J. KATZ, an attorney at law, duly admitted to practice in the Courts of the State of New York, affirms under the penalties of perjury that:

He is an attorney for the plaintiff(s) in the above entitled action. That he has read the foregoing SUMMONS and COMPLAINT and knows of the contents thereof, and upon information and belief, deponent believes the matters alleged therein to be true.

The reason this Verification is made by deponent and not by the plaintiff(s) is that the plaintiff(s) herein reside in a county other than the one in which plaintiff's attorneys maintain their office.

The source of deponent's information and the grounds of his belief are communications, papers, reports and investigations contained in the file.

Dated: New York, New York  
May 23, 2008



RICHARD J. KATZ



EXHIBIT C

NEW HAMPSHIRE

**Corporation Division**

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Search

- By Business Name
- By Business ID
- By Registered Agent
- Annual Report
- File Online

**Date:** 7/10/2008      **Filed Documents**  
 (Annual Report History, View Images, etc.)

**Business Name History**

---

Name	Name Type
CUSTOM MUFFLER SPECIALISTS, INC.	Legal

---

**Corporation - Domestic - Information**

<b>Business ID:</b>	10556
<b>Status:</b>	Dissolved
<b>Entity Creation Date:</b>	11/17/1980
<b>Dissolve Date:</b>	11/2/1992
<b>Principal Office Address:</b>	561 AMHERST STREET NASHUA NH 03063
<b>Principal Mailing Address:</b>	No Address
<b>Last Annual Report Filed Date:</b>	3/15/1990
<b>Last Annual Report Filed:</b>	1990

---

**Registered Agent**

<b>Agent Name:</b>	SCOTT PHILO
<b>Office Address:</b>	461 AMHERST STREET (6/27-BAD CK REC'D FOR 9'S) NASHUA NH 03063
<b>Mailing Address:</b>	

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EXHIBIT D

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

CESAR SANCHEZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 304315-08
	)	
CUSTOM MUFFLER SPECIALISTS, INC.,	)	
DOALL COMPANY,	)	
CONTINENTAL HYDRAULICS,	)	
BALDOR ELECTRIC COMPANY, and	)	
JOHN DOE CORPORATIONS 1 through 10	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL TO CLERK OF THE SUPREME COURT  
OF THE STATE OF NEW YORK, COUNTY OF BRONX**

TO: Clerk of the Supreme Court of the State of New York, County of Bronx  
851 Grand Concourse  
Bronx, New York 10451

PLEASE TAKE NOTICE that on this 11th day of July 2008, pursuant to 28 U.S.C.


§ 1441, Defendant Baldor Electric Company removed this cause to the United States District  
Court, Southern District of New York. The Notice of Removal is attached.

Dated: New York, New York  
July 11, 2008

Respectfully submitted,

HERZFELD & RUBIN, P.C.

By:

  
Jeffrey L. Chase (JLC 4476)  
Attorneys for Defendant  
Baldor Electric Company  
40 Wall Street  
New York, New York 10005  
(212) 471-8500

TO: Clerk of the Supreme Court  
Supreme Court, Bronx County  
851 Grand Concourse  
Bronx, New York 10451

Richard J. Katz, Esq.  
Attorneys for Plaintiff  
80 Broad Street, 33rd Floor  
New York, New York 10004

Marin Goodman, LLP,  
Attorneys for Defendants  
Doall Company and Continental Hydraulics  
40 Wall Street, 57th Floor  
New York, NY 10005  
(212) 661-1151

Custom Muffler Specialist, Inc.  
461 Amherst Street  
Nashum, New Hampshire 03063

EXHIBIT E

07/09/2008 1:28PM 319Marin Goodman, LLP And BAKALOR PC

No. 8790 P. 22/002

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
CESAR SANCHEZ,

Plaintiff,

- against -

**CONSENT TO  
REMOVAL**

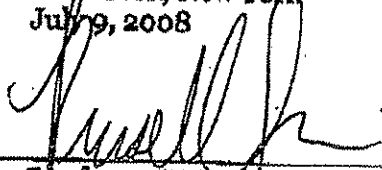
CUSTOM MUFFLER SPECIALIST, INC.,  
DOALL COMPANY,  
CONTINENTAL HYDRAULICS,  
BALDOR ELECTRIC COMPANY, and  
JOHN DOE CORPORATIONS 1 through 10,

Defendants.  
\_\_\_\_\_X

**CONSENT TO REMOVAL**

The defendants, DOALL COMPANY and CONTINENTAL HYDRAULICS, by and through their attorneys, Marin Goodman, LLP, hereby offer their formal consent to the removal of the above-captioned case, originally filed in the Supreme Court of New York, Bronx New York (Index No.: 304315/2008), to the United States District Court for the Southern District of New York.

Dated: New York, New York  
July 9, 2008



\_\_\_\_\_  
Marin Goodman, LLP  
by: Russell Jamison, Esq.  
Attorneys for Defendants DOALL COMPANY and CONTINENTAL HYDRAULICS,  
40 Wall Street, 57<sup>th</sup> Floor  
New York, New York 10005  
Tel : (212) 661-1151  
Fax : (212) 661-1141



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CESAR SANCHEZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 08 CIV 6292 (NRB)
	)	
CUSTOM MUFFLER SPECIALISTS, INC.,	)	
DOALL COMPANY,	)	
CONTINENTAL HYDRAULICS,	)	JURY TRIAL DEMANDED
BALDOR ELECTRIC COMPANY, and	)	
JOHN DOE CORPORATIONS 1 through 10	)	
	)	
Defendants.	)	

**BALDOR ELECTRIC COMPANY'S RULE 7.1 DISCLOSURE STATEMENT**

COMES NOW Baldor Electric Company, by and through its undersigned counsel,  
pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, and for its Disclosure Statement,  
states as follows:

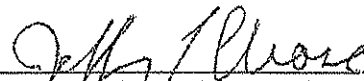
Baldor Electric Company has no parent corporation nor does any publicly held  
corporation own 10% or more of Baldor's stock.

Dated: New York, New York  
July 11, 2008

Respectfully submitted,

HERZFELD & RUBIN, P.C.

By:

  
Jeffrey L. Chase (JLC 4476)  
Attorneys for Defendant  
Baldor Electric Company  
40 Wall Street  
New York, New York 10005  
(212) 471-8500

TO: Clerk of the Supreme Court  
Supreme Court, Bronx County  
851 Grand Concourse  
Bronx, New York 10451

Richard J. Katz, Esq.  
Attorneys for Plaintiff  
80 Broad Street, 33rd Floor  
New York, New York 10004

Marin Goodman, LLP,  
Attorneys for Defendants  
Doall Company and Continental Hydraulics  
40 Wall Street, 57th Floor  
New York, NY 10005  
(212) 661-1151

Custom Muffler Specialist, Inc.  
461 Amherst Street  
Nashum, New Hampshire 03063

JS 44C/SDNY  
REV. 12/2005

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS Cesar Sanchez

DEFENDANTS Custom Muffler Specialists, Doall Company, Continental Hydraulics, Baldor Electric Company, and John Doe Corporations 1 through 10

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Richard J. Katz, Esq., 80 Broad Street, 33rd Floor  
New York, New York 10004

ATTORNEYS (IF KNOWN)

HERZFELD & RUBIN, P.C., Attorneys for Defendant  
Baldor Electric Company, 40 Wall Street, New York, NY  
10005

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

Product Liability action sounding in negligence, strict liability and breach of warranty seeking damages for personal injuries.

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes? ☐ Judge Previously AssignedIf yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## ACTIONS UNDER STATUTES

CONTRACT		PERSONAL INJURY		PERSONAL INJURY		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY	<input type="checkbox"/> 362 PERSONAL INJURY - MED MALPRACTICE	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE REAPPORTIONMENT					
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 620 FOOD & DRUG	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 410 ANTITRUST						
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY	<input type="checkbox"/> 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 625 DRUG RELATED SEIZURE OF PROPERTY	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 430 BANKS & BANKING						
<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 340 MARINE	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 450 COMMERCE/ICC RATES/ETC						
<input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 345 MARINE PRODUCT LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> 630 LIQUOR LAWS		<input type="checkbox"/> 460 DEPORTATION						
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> 640 RR & TRUCK		<input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)						
<input type="checkbox"/> 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)	<input type="checkbox"/> 355 MOTOR VEHICLE	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 650 AIRLINE REGS		<input type="checkbox"/> 480 CONSUMER CREDIT						
<input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS	<input checked="" type="checkbox"/> 360 OTHER PERSONAL INJURY		<input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH		<input type="checkbox"/> 490 CABLE/SATELLITE TV						
<input type="checkbox"/> 160 STOCKHOLDERS SUITS			<input type="checkbox"/> 690 OTHER		<input type="checkbox"/> 810 SELECTIVE SERVICE						
<input type="checkbox"/> 190 OTHER CONTRACT					<input type="checkbox"/> 850 SECURITIES/COMMODITIES/EXCHANGE						
<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY					<input type="checkbox"/> 875 CUSTOMER CHALLENGE						
<input type="checkbox"/> 196 FRANCHISE					<input type="checkbox"/> 891 AGRICULTURE ACTS						
					<input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT						
					<input type="checkbox"/> 893 ENVIRONMENTAL MATTERS						
					<input type="checkbox"/> 894 ENERGY ALLOCATION ACT						
					<input type="checkbox"/> 895 FREEDOM OF INFORMATION ACT						
					<input type="checkbox"/> 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE						
					<input type="checkbox"/> 950 CONSTITUTIONALITY OF STATE STATUTES						
					<input type="checkbox"/> 890 OTHER STATUTORY ACTIONS						

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

## ORIGIN

- ☐ 1 Original Proceeding
 ☐ 2a. Removed from State Court
 ☒ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

AND at least one party is a pro se filigant

(PLACE AN x IN ONE BOX ONLY)

## BASIS OF JURISDICTION

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1332, 1441)

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☒ 4 DIVERSITY

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2 <input type="checkbox"/> 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4 <input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Plaintiff Cesar Sanchez, Bronx County, New York (Street not provided in plaintiff's complaint)

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Defendant Custom Muffler Specialist, Inc., 461 Amherst Street, Nashum, New Hampshire 03063  
 Defendant Doall Company, 1480 South Wolf Road, Wheeling, Illinois 60090  
 Defendant Continental Hydraulics, 5505 West 123rd Street, Savage, Minnesota 55378  
 Defendant Baldor Electric Company, 5711 R.S. Boreham, Jr. Street, Fort Smith, Arkansas 72901

## DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE  
(DO NOT check either box if this a PRISONER PETITION.)

DATE  
7/11/08  
RECEIPT #

SIGNATURE OF ATTORNEY OF RECORD



ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO  
☒ YES (DATE ADMITTED Mo. 7 Yr. 75)  
 Attorney Bar Code #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

J Michael McMahon, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)